

110TH CONGRESS
2D SESSION

S. 3402

To provide information and education to consumers concerning health care services and health insurance coverage.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2008

Mr. SALAZAR introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide information and education to consumers concerning health care services and health insurance coverage.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer Health Edu-
5 cation and Transparency Act of 2008”.

6 **SEC. 2. OFFICE OF CONSUMER HEALTH EDUCATION AND**
7 **INFORMATION.**

8 (a) ESTABLISHMENT.—The Secretary of Health and
9 Human Services (referred to in this Act as the “Sec-
10 retary”) shall establish within the Department of Health

1 and Human Services an office to be known as the “Office
2 of Consumer Health Education and Information” (re-
3 ferred to in this Act as the “Office”) to provide consumers
4 of health care services and health insurance with informa-
5 tion, through education and outreach, concerning personal
6 health and wellness and health insurance coverage.

7 (b) DIRECTOR.—The Office shall be headed by a Di-
8 rector who shall be appointed by the Secretary,

9 (c) DUTIES.—The Office shall—

10 (1) collect and organize personal health and
11 wellness information from private and public sources
12 and disseminate such information to members of the
13 general public to improve personal health awareness
14 and behaviors;

15 (2) collect and organize information on avail-
16 able health insurance options and consumer health
17 insurance protections in each of the 50 States and
18 United States territories and disseminate such infor-
19 mation to the general public through the Internet
20 website established under paragraph (8) and the
21 Federal Citizen Information Center hotline estab-
22 lished under paragraph (5);

23 (3) coordinate the public health education and
24 outreach efforts of organizations and offices within
25 the Department of Health and Human Services, in-

1 including the Centers for Medicare & Medicaid Serv-
2 ices, the Health Resources and Services Administra-
3 tion, the National Institutes of Health, the Centers
4 for Disease Control and Prevention, and the Admin-
5 istration on Aging, to increase the effectiveness of
6 such efforts;

7 (4) enter into interagency agreements with the
8 Federal Trade Commission, the Department of
9 Labor, and other Federal agencies determined ap-
10 propriate by the Secretary to facilitate the coordina-
11 tion of personal health and wellness or health insur-
12 ance information provided to consumers;

13 (5) enter into an interagency agreement with
14 the General Services Administration to operate di-
15 rectly or indirectly, through grant or contract, a 24-
16 hour, toll-free telephone hotline at the Federal Cit-
17 izen Information Center to provide consumer infor-
18 mation regarding health insurance and personal
19 health and wellness behaviors as well as direct con-
20 sumers to geographically appropriate resources;

21 (6) identify and develop methods to increase the
22 quality and amount of information available to con-
23 sumers regarding the cost, quality, and availability
24 of health care services and health insurance plans;

1 (7) develop partnership agreements with public
2 and private organizations to improve the education
3 of the general public regarding personal health and
4 wellness and health insurance;

5 (8) develop and maintain a consumer education
6 Internet website to provide information concerning
7 personal health and wellness and health insurance;
8 and

9 (9) develop and disseminate relevant informa-
10 tion for employers purchasing health insurance cov-
11 erage for employees and their families.

12 (d) ANNUAL REPORT.—Not later than 1 year after
13 the date of enactment of this Act, and annually thereafter,
14 the Secretary shall submit to Congress a report that in-
15 cludes—

16 (1) a detailed review of the Office’s activities,
17 operations, and achievements during the year for
18 which the report is being prepared;

19 (2) a description of the Office’s goals for the
20 year following the year for which the report is being
21 prepared and a strategic plan for the operation and
22 activities of the Office to achieve such goals; and

23 (3) a detailed request for additional appropria-
24 tions needed for the implementation of such plan, as
25 appropriate.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
 2 authorized to be appropriated, such sums as may be nec-
 3 essary to carry out this section.

4 **SEC. 3. DEVELOPMENT AND UTILIZATION OF UNIFORM**
 5 **SUMMARY OF BENEFITS EXPLANATION.**

6 (a) IN GENERAL.—The Secretary shall request the
 7 National Association of Insurance Commissioners (re-
 8 ferred to as the “NAIC”) to develop, and submit to the
 9 Secretary not later than 12 months after the date of en-
 10 actment of this Act, standards for use by health insurance
 11 issuers in compiling and providing to enrollees a summary
 12 of benefits explanation that accurately represents the ben-
 13 efits and coverage provided by the issuer under the appli-
 14 cable health insurance plan. In developing such standards,
 15 the NAIC shall consult with a working group composed
 16 of representatives of health insurance-related consumer
 17 advocacy organizations, issuers of health insurance plans,
 18 and other qualified individuals.

19 (b) REQUIREMENTS.—The standards for the sum-
 20 mary of benefits explanation developed under subsection
 21 (a) shall provide for the following:

22 (1) APPEARANCE.—The standards shall ensure
 23 that the summary is presented in a uniform format
 24 that does not exceed 4 pages in length and does not
 25 include print smaller than 12-point font.

1 (2) LANGUAGE.—The standards shall ensure
 2 that the language used in the summary is presented
 3 in a manner determined to be understandable by the
 4 average health plan enrollee.

5 (3) CONTENTS.—The standards shall ensure
 6 that the summary includes—

7 (A) information determined to be essential
 8 to a consumer’s understanding of the applicable
 9 health insurance plan benefits;

10 (B) uniform definitions of standard insur-
 11 ance terms;

12 (C) examples to illustrate common benefits
 13 scenarios; and

14 (D) illustrations that enhance consumer
 15 understanding of the explanation.

16 (c) REGULATIONS.—

17 (1) SUBMISSION.—If, not later than 12 months
 18 after the date of enactment of this Act, the NAIC
 19 submits to the Secretary the standards provided for
 20 under subsection (a), the Secretary shall, not later
 21 than 60 days after the date on which such standards
 22 are submitted, promulgate regulations to apply such
 23 standards to entities described in subsection (c)(2).

24 (2) FAILURE TO SUBMIT.—If the NAIC fails to
 25 submit to the Secretary the standards under sub-

1 section (a) within the 12-month period provided for
 2 in paragraph (1), the Secretary shall, not later than
 3 90 days after the expiration of such 12-month pe-
 4 riod, promulgate regulations providing for the appli-
 5 cation of Federal standards for the summary of ben-
 6 efit explanation to entities described in subsection
 7 (d)(2).

8 (d) REQUIREMENT TO PROVIDE.—

9 (1) IN GENERAL.—Not later than 24 months
 10 after the date of enactment of the Act, each entity
 11 described in paragraph (2) shall, prior to the effec-
 12 tive date of any health insurance coverage provided
 13 by the entity to an individual, provide to such indi-
 14 vidual a summary of benefits explanation pursuant
 15 to the standards promulgated by the Secretary
 16 under subsection (c).

17 (2) ENTITIES.—

18 (A) IN GENERAL.—An entity is described
 19 in this paragraph is—

20 (i) a health insurance issuer (includ-
 21 ing a group health plan) offering health in-
 22 surance coverage within the United States
 23 (including carriers under the Federal Em-
 24 ployee Health Benefits Program under
 25 chapter 89 of title 5, United States Code);

1 (ii) the Secretary with respect to cov-
 2 erage under the Medicare, Medicaid, and
 3 SCHIP programs under titles XVIII, XIX,
 4 and XXI of the Social Security Act (42
 5 U.S.C. 1395, 1396, 1397aa et seq.);

6 (iii) the Secretary of Veterans Affairs
 7 with respect to coverage provided through
 8 the Department of Veterans Affairs; and

9 (iv) the Secretary of Defense with re-
 10 spect to military health program coverage
 11 under chapter 55 of title 10, United States
 12 Code, including under the TRICARE pro-
 13 gram (as defined in section 1072(7) of
 14 such title).

15 (B) LIMITATION.—An entity described in
 16 the paragraph shall not include a self-funded
 17 group health plan to which the Employee Re-
 18 tirement Income Security Act of 1974 applies.

19 (e) PREEMPTION.—The standards promulgated
 20 under subsection (c) shall preempt any related State
 21 standards that require summary of benefits health plan
 22 explanations that provide less information to consumers,
 23 as determined by the Secretary.

24 (f) FAILURE TO PROVIDE.—An entity described in
 25 subsection (d)(2) that willfully fails to provide the infor-

1 mation required under this section shall be subject to a
 2 fine of not more than \$1,000 for each such failure. Such
 3 failure with respect to each enrollee shall constitute a sep-
 4 arate offense for purposes of this subsection.

5 **SEC. 4. CONSUMER HEALTH EDUCATION AND OUTREACH**
 6 **INITIATIVE.**

7 (a) ESTABLISHMENT.—Not later than 12 months
 8 after the date of enactment of this Act, the Secretary, act-
 9 ing through the Director of the Office, shall establish and
 10 implement a consumer health education and outreach ini-
 11 tiative through the use of print, Internet, television, and
 12 radio media.

13 (b) REQUIRED INFORMATION.—The initiative estab-
 14 lished under subsection (a) shall provide consumers with
 15 information concerning the following:

16 (1) The importance of adopting responsible per-
 17 sonal health and wellness behaviors.

18 (2) The important role of health insurance cov-
 19 erage in maintaining personal health and wellness
 20 behaviors.

21 (3) The impact of individuals without health in-
 22 surance on the general health care market and costs
 23 of health care services.

24 (4) The importance of utilizing preventive
 25 health services and how to access such services.

1 (5) The operation of health insurance plans.

2 (6) Common health care terminology.

3 (7) The information that a consumer should ob-
4 tain about health care services and health insurance
5 plans prior to participating.

6 (8) The availability of, and eligibility for, Fed-
7 eral health care programs and assistance.

8 (9) The format and content of the summary of
9 benefits explanation required under section 3.

10 (10) The resources available through the Office
11 and how to access those resources, including the
12 Internet website and toll free hotline.

13 (c) LANGUAGES.—The Secretary shall provide infor-
14 mation through the initiative under subsection (a) in mul-
15 tiple languages and in an accessible format for individuals
16 with sight and hearing disabilities.

17 (d) DURATION.—The initiative under subsection (a)
18 shall be at least 6 months in duration.

19 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated, \$10,000,000 to carry out
21 this section.

22 **SEC. 5. REPORT CONCERNING END-OF-LIFE CARE EDU-**
23 **CATION AND SPENDING.**

24 (a) STUDY.—The Secretary, in consultation with the
25 representatives described in subsection (c), shall conduct

1 a comprehensive study of matters related to improved con-
2 sumer education on end-of-life care decisions and spend-
3 ing. Such study shall evaluate issues including—

4 (1) consumer attitudes and questions regarding
5 end-of-life care decisions;

6 (2) effective outreach methods to increase con-
7 sumer understanding of end-of-life care consider-
8 ations and tools for making end-of-life care deci-
9 sions;

10 (3) methods for empowering consumers to en-
11 sure that their end-of-life care instructions are prop-
12 erly executed;

13 (4) the appropriate timing and venues for end-
14 of-life care discussions between health care con-
15 sumers and providers;

16 (5) ethical and legal considerations considered
17 by consumers when making end-of-life care deci-
18 sions;

19 (6) trends in end-of-life care spending and the
20 impact of such spending on overall health care costs;
21 and

22 (7) potential strategies for addressing any iden-
23 tified end-of-life care spending issues.

24 (b) REPORT.—Not later than 18 months after the
25 date of enactment of this Act, the Secretary shall submit

1 to Congress, a report concerning the study conducted
2 under subsection (a) together with the recommendations
3 of the Secretary for legislative or administrative action
4 where appropriate.

5 (c) REPRESENTATIVES.—The representatives de-
6 scribed in this subsection include representatives from the
7 following groups, organizations, or associations:

- 8 (1) A senior citizen advocacy organization.
- 9 (2) A hospice organization.
- 10 (3) A physician-based hospice and palliative
11 care organization.
- 12 (4) A home-health organization.
- 13 (5) A long-term care advocacy organization.
- 14 (6) A cancer research organization.
- 15 (7) A patient advocacy organization.
- 16 (8) A faith-based health care organization.
- 17 (9) A nurse-based medical association.
- 18 (10) A geriatrician-based medical association.
- 19 (11) An academic medical institution.
- 20 (12) A caregiver advocacy organization.
- 21 (13) A chronic disease advocacy organization.
- 22 (14) A disability rights advocacy organization.
- 23 (15) A social work association.
- 24 (16) A pediatric palliative care organization.
- 25 (17) A veterans health care organization.

1 **SEC. 6. ESTABLISHMENT OF DEPARTMENT OF EDUCATION**
2 **GRANTS TO LOCAL EDUCATIONAL AGENCIES**
3 **FOR DEVELOPMENT AND IMPLEMENTATION**
4 **OF PERSONAL HEALTH AND NUTRITION PRO-**
5 **GRAMS IN GRADES K-12.**

6 (a) DEFINITIONS.—In this section:

7 (1) LOCAL EDUCATIONAL AGENCY.—The term
8 “local educational agency” has the meaning given
9 the term in section 9101 of the Elementary and Sec-
10 ondary Education Act of 1965 (20 U.S.C. 7801).

11 (2) SECRETARY.—The term “Secretary” means
12 the Secretary of Education.

13 (b) PROGRAM AUTHORIZED.—The Secretary shall es-
14 tablish a 5-year pilot program awarding grants, on a com-
15 petitive basis, to not more than 25 local educational agen-
16 cies to allow the local educational agencies to develop and
17 implement a personal health and nutrition curriculum in
18 elementary schools or secondary schools.

19 (c) APPLICATION.—A local educational agency that
20 desires to receive a grant under this section shall submit
21 an application to the Secretary at such time, in such man-
22 ner, and accompanied by such information as the Sec-
23 retary may require. The application shall contain a plan
24 for the proposed curriculum and for the use of the grant
25 funds by the local educational agency, including a descrip-

1 tion of the population of children to be targeted by the
2 program assisted under the grant.

3 (d) AWARD BASIS.—In awarding grants under this
4 section, the Secretary shall consider whether the cur-
5 riculum proposal submitted by the local educational agen-
6 cy in the application—

7 (1) is age-appropriate for, and appealing to,
8 children in the targeted population described in the
9 application;

10 (2) incorporates evidence-based health and nu-
11 trition standards as the basis for instruction;

12 (3) integrates classroom instruction with phys-
13 ical activity to demonstrate the benefits of adopting
14 good personal health and nutrition habits;

15 (4) incorporates communication with parents
16 and includes family learning activities outside of the
17 classroom; and

18 (5) promotes school staff health and wellness.

19 (e) USE OF FUNDS.—A local educational agency re-
20 ceiving a grant under this section shall use such funds
21 to develop and implement a personal health and nutrition
22 curriculum for elementary or secondary school students.

1 (f) AUTHORIZATION OF APPROPRIATION.—There are
2 authorized to be appropriated to carry out this section
3 \$500,000 for each of the fiscal years 2009 through 2014.

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